

ORIGINAL

NEW APPLICATION



0000166432

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

SUSAN BITTER SMITH, Chairman
BOB STUMP
BOB BURNS
DOUG LITTLE
TOM FORESE

Arizona Corporation Commission

DOCKETED

OCT 19 2015

DOCKETED BY

IN THE MATTER OF THE APPLICATION OF) DOCKET NO. T-03446A-15-
ACCESS POINT, INC. TO RESCIND THE BOND)
REQUIREMENT CONTAINED IN DECISION)
NO. 71118)
APPLICATION
T-03446A-15-0360

Access Point, Inc. ("API") requests rescission of the \$125,000 bond or letter of credit requirement contained in Arizona Corporation Commission ("Commission") Decision No. 71118 (June 5, 2009). API has been authorized to provide telecommunications services in Arizona since June 9, 2000. In the years since API's CC&Ns were granted, API has met all requirements of the Commission and has faithfully and responsibly served its subscribers. API's good standing, longevity and compliance history warrant rescission of the requirement to maintain the bond or letter of credit and approval for return of the bond or letter of credit, consistent with recent Commission orders granting similar requests. In support of its Application, API states:

1. API is a North Carolina corporation authorized to conduct business in Arizona. API's headquarters is in Cary, North Carolina at the following address:

Access Point, Inc.
1100 Crescent Green, Suite 109
Cary, NC 27518

2. API was granted a Certificate of Convenience and Necessity ("CC&N") to provide resold long distance service in Decision No. 62624 (June 9, 2000), and a CC&N to provide resold and facilities-based local exchange service in Decision No. 71118 (June 5, 2009).

3. Decision No. 62624 did not contain a bond requirement, but Decision No. 71118 required a bond or letter of credit in the amount of \$125,000. In Decision No. 71270 (Sept. 2,

1 2009), the Commission granted API an extension of time to submit the bond. API submitted its
2 Irrevocable Standby Letter of Credit from Wachovia Bank, N.A. on October 7, 2009. Since that
3 time, API has kept a bond or letter of credit on file with the Commission's Business Office in the
4 required amount.

5 4. The current letter of credit from PNC Bank is due for renewal in December 2015.
6 Maintaining the letter of credit creates a significant expense for API.

7 5. The Commission has never had to draw on the letter of credit.

8 6. API has complied with all requirements of Decision Nos. 62624, 71118, and 71270.
9 In addition, API is in compliance with all Commission rules. There has never been a formal
10 complaint against API filed with the Commission, and the Commission has never taken any
11 enforcement action against API.

12 7. At the time Decision 71118 was issued, Commission policy required a bond or
13 letter of credit for each telecommunications carrier seeking a new or expanded CC&N. However,
14 Commission policy has shifted, and the Commission no longer requires a bond in every case.
15 Indeed, the Commission has recently rescinded the bond requirements for a number of
16 telecommunications carriers, for example:

- 17 • Broadvox-CLEC, Decision No. 74410 (March 19, 2014)
- 18 • Gila Local Exchange Carrier, Inc., Decision No. 74453 (April 18, 2014)
- 19 • tw telecom of arizona, llc, Decision No. 74497 (May 23, 2014)
- 20 • XO Communications Services, LLC, Decision No. 74490 (May 23, 2014)
- 21 • CentutryLink Communications Company, LLC, Decision No. 74825 (Nov.
22 13, 2014)
- 23 • Preferred Long Distance, Inc., Decision No. 74942 (Feb. 9, 2015)
- 24 • Mercury Voice & Data, LLC, Decision No. 75103 (May 19, 2015)

25 8. Rescinding the requirement to maintain a bond or letter of credit will also put API
26 at regulatory parity with other CLECs currently operating in Arizona, as well as with incumbent
27

1 local exchange carriers such as Qwest Corporation, Inc. d/b/a CenturyLink, which does not have a
2 bond requirement.

3 9. The Commission's Competitive Telecommunications Services Rules -
4 A.A.C. R14-2-1101 through 14-2-1115, do not require that API maintain a performance bond
5 as a condition of providing service in Arizona. Specifically, A.A.C. R14-2-1105(D) states that
6 the Commission "may require, as a precondition to certification, the procurement of a
7 performance bond sufficient to cover any advances or deposits the telecommunications company
8 may collect from its customers, or order that such advances or deposits be held in escrow or
9 trust." In other words, the Commission has the authority and the discretion to determine whether
10 a performance bond or letter of credit is still appropriate for API. Because of the
11 circumstances described in the previous paragraphs, API believes that the requirement for a
12 \$125,000 performance bond or letter of credit should be rescinded.

13 10. Upon rescission of the requirement to maintain a bond or letter of credit, API
14 requests that the Commission return the bond or letter of credit in the Commission's possession to:

15 Mark Henry
16 Treasury Analyst
17 Access Point Inc.
18 1100 Crescent Green, Suite 109
Cary, NC 27518.

19 WHEREFORE, API requests that the Commission issue an order:

20 A. Approving this application.

21 B. Rescinding the bond or letter of credit requirements of Decision Nos. 71118 and
22 71270.

23 C. Ordering that Access Point, Inc. may cancel, rescind, discontinue and be released
24 from any performance bond or letter of credit obtained in compliance with the performance bond
25 or letter of credit requirement of Decisions Nos. 71118 and 71270.

26 D. Ordering that all bonds or letters of credit, riders, and associated documents on file
27 with the Commission Business Office on behalf of Access Point, Inc. be released and returned to:

1 Mark Henry
2 Treasury Analyst
3 Access Point Inc.
4 1100 Crescent Green, Suite 109
5 Cary, NC 27518.

6 RESPECTFULLY SUBMITTED this 19th day of October 2015.

7 SNELL & WILMER L.L.P.

8 By Timothy J. Sabo
9 Timothy J. Sabo
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13 Attorney for Access Point, Inc.

14 Original and 13 copies of the foregoing
15 filed this 19th day of October 2015 with:

16 Docket Control
17 Arizona Corporation Commission
18 1200 West Washington Street
19 Phoenix, Arizona 85007

20 Copy of the foregoing hand-delivered/mailed
21 this 19th day of October 2015 to:

22 Dwight D. Nodes
23 Hearing Division
24 Acting Administrative Law Judge
25 Arizona Corporation Commission
26 1200 West Washington
27 Phoenix, Arizona 85007

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By Janice M. Alward